

FILED

FEB 25 2009

1 JOSEPH P. RUSSONIELLO (CABN 44332)
 2 United States Attorney

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

3 BRIAN J. STRETCH (CABN 163973)
 4 Chief, Criminal Division

5 KEVIN J. BARRY (CABN 229748)
 6 Assistant United States Attorney

7 450 Golden Gate Avenue, Box 36055
 8 San Francisco, California 94102
 9 Telephone: (415) 436-7071
 Facsimile: (415) 436-7234
 Email: kevin.barry@usdoj.gov

10 Attorneys for Plaintiff

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 SAN FRANCISCO DIVISION

16 UNITED STATES OF AMERICA,

17 Plaintiff,

18 v.

19 FRANK SALVADOR SOLORZA,

20 Defendant.

) CR No. 09-mj-70139 MEJ

) STIPULATION AND ~~[PROPOSED]~~ ORDER
) CHANGING HEARING DATE AND
) EXCLUDING TIME UNDER FED. R. CRIM.
) P. 5.1 and 18 U.S.C. § 3161

21
 22
 23
 24 On February 12, 2009, the parties in this case appeared before the Court for the
 25 defendant's detention hearing. At that time, the Court set the date for the defendant's
 26 preliminary hearing or arraignment on February 26, 2009, at 9:30 a.m. The Court also scheduled
 27 a status hearing on the state of the real property securing the Defendant's bond for that same
 28 time.

1 Since the February 12, 2009 detention hearing, the defendant has been released on bond
 2 and has retained counsel. Through this Stipulation, the parties hereby request that the date of a
 3 preliminary hearing or arraignment be rescheduled from February 26, 2009 to March 11, 2009.
 4 The parties wish to keep the status conference regarding the bond for February 26, 2009,
 5 however.

6 The parties request that pursuant to Federal Rule of Criminal Procedure ("FRCP") 5.1(d),
 7 the time limits set forth in FRCP 5.1(c) be extended through March 11, 2009. The parties agree
 8 that, taking into account the public interest in prompt disposition of criminal cases, good cause
 9 exists for this extension. In particular, the defendant has recently retained counsel who is taking
 10 over representation of the defendant from the Federal Public Defender's Office, who represented
 11 the defendant during his initial appearance and detention hearing.

12 The parties also request that the Court exclude the period of time from the date of this
 13 Order through March 11, 2009 from any time limits applicable under 18 U.S.C. § 3161. The
 14 parties represent that granting the continuance provides the reasonable time necessary for
 15 continuity and preparation of defense counsel. 18 U.S.C. § 3161(h)(8)(B)(iv). The parties also
 16 agree that the ends of justice served by granting such a continuance outweigh the best interests of
 17 the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(8)(A).

18
 19 SO STIPULATED:

20 JOSEPH P. RUSSONIELLO
 21 United States Attorney

22 DATED: February 20, 2009


23 /s/
 24 KEVIN J. BARRY
 25 Assistant United States Attorney

26 DATED: February 20, 2009

27 /s/
 28 ALAN A. DRESSLER
 Attorney for FRANK SALVADOR SOLORZA

[PROPOSED] ORDER

For the reasons stated above, the Court finds: (1) that the defendant's preliminary hearing or arraignment shall be moved from February 26, 2009 to March 11, 2009 at 9:30 a.m.; (2) that a status hearing on the defendant's bond shall be held on February 26, 2009 at 9:30 a.m.; (3) that the extension of time for the defendant's preliminary hearing or arraignment through March 11, 2009 is warranted; (4) that the time between the date of this Order and March 11, 2009 shall be excluded from any time limits applicable under 18 U.S.C. § 3161, to ensure preparation and continuity of counsel; and (5) that the ends of justice served by the continuance outweigh the best interests of the public and the defendant in a speedy trial. 18 U.S.C. §3161 (h)(8)(A). The failure to grant the requested continuance would deny the defendant effective preparation of counsel, and would result in a miscarriage of justice. 18 U.S.C. §3161(h)(8)(B)(iv).

IT IS SO ORDERED.DATED: 2-25-09

THE HONORABLE MARIA-ELENA JAMES
United States Magistrate Judge